



for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: SMITH, BROWN, and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant,<sup>1</sup> without the assistance of counsel, appeals the Decision and Order (94-BLA-1145) of Administrative Law Judge Reno E. Bonfanti denying benefits on a claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* (the Act). The administrative law judge granted carrier's motion to be dismissed as a party, dismissed Hudson Coal Company from liability, and credited claimant with nineteen years of qualifying coal mine employment.<sup>2</sup> The administrative law judge found the

---

<sup>1</sup>Claimant is Charles B. Lester, the miner, who filed a claim for benefits on June 11, 1993. Director's Exhibit 1.

<sup>2</sup>Claimant appeared at the formal hearing without counsel and was advised by the administrative law judge that he had a right to be represented by an attorney at no cost. Hearing Transcript at 5-6. Claimant responded that he wished to proceed without counsel. Hearing Transcript at 6. The administrative law judge then allowed claimant the opportunity to present evidence and testimony. Hearing Transcript at 6-

existence of pneumoconiosis arising out of coal mine employment established pursuant to 20 C.F.R. §§718.202(a)(1), (4) and 718.203(b), but determined that claimant failed to establish total respiratory disability pursuant to 20 C.F.R. §718.204(c). Accordingly, benefits were denied.

On appeal, claimant generally challenges the denial of benefits. Employer and the Director, Office of Workers' Compensation Programs (the Director), respond, urging affirmance.<sup>3</sup>

In an appeal filed by a claimant without the assistance of counsel, the Board considers the issue raised to be whether the Decision and Order below is supported by substantial evidence. *McFall v. Jewell Ridge Coal Corp.*, 12 BLR 1-176 (1989); *Stark v. Director, OWCP*, 9 BLR 1-36 (1986). We must affirm the findings of the administrative law judge if they are supported by substantial evidence, are rational, and are in accordance with applicable law. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In considering the evidence of total disability pursuant to Section 718.204(c)(1)-(4), the administrative law judge properly found that the pulmonary function study and arterial blood gas study of record did not yield qualifying results, Director's Exhibits 15, 17, that there is no evidence of cor pulmonale with right-sided congestive heart failure, and that the two medical opinions of record stated that

---

32. Thus, we hold that the administrative law judge provided a full and fair hearing on the contested issues in accord with *Shapell v. Director, OWCP*, 7 BLR 1-304 (1984). See *Owens v. Jewell Smokeless Coal Corp.*, 14 BLR 1-47 (1990).

<sup>3</sup>We affirm the administrative law judge's findings regarding coal mine employment, carrier's dismissal, and pursuant to Section 718.203(b) as unchallenged on appeal and not adverse to claimant. See *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

claimant had no pulmonary or respiratory impairment. Director's Exhibit 16; Employer's Exhibit 1; Decision and Order at 6-8.

We therefore affirm the administrative law judge's findings that claimant failed to establish total respiratory disability pursuant to Section 718.204(c)(1)-(4). Further, as claimant has failed to establish total respiratory disability, an essential element of entitlement pursuant to 20 C.F.R. Part 718, we affirm the denial of benefits.<sup>4</sup> See *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986)(*en banc*).

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

ROY P. SMITH  
Administrative Appeals Judge

JAMES F. BROWN  
Administrative Appeals Judge

---

<sup>4</sup>Inasmuch as we affirm the denial of benefits, we need not address carrier's arguments pursuant to Section 718.202(a)(1) and (a)(4) or the issue of responsible operator. See *Director, OWCP v. Trace Fork Coal Co.*, 67 F.3d 503, 19 BLR 2-290 (4th Cir. 1995), *petition for review denied*, *Matney v. Trace Fork Coal Co.*, 17 BLR 1-43 (1993).

REGINA C. McGRANERY  
Administrative Appeals Judge